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FILED  
Clerk  
District Court

JUL 27 2022

for the Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN MARIANA ISLANDS**

10 **JOSE C. MAFNAS,**

11 Civil Case No. **CV 22-0009**

12 **Plaintiff,**

13 **VERIFIED COMPLAINT**

14 **vs.**

15 **WILLIAM M. CASTRO, in his personal**  
16 **capacity, and in his official capacity as the**  
17 **Chief of Staff of the Office of the Governor,**  
18 **DAVID DLG. ATALIG, in his personal**  
19 **capacity, and in his official capacity as the**  
20 **Secretary of Finance of the Department of**  
21 **Finance, and THE COMMONWEALTH**  
22 **OF THE NORTHERN MARIANA**  
23 **ISLANDS,**

24 **Defendants.**

25 Plaintiff Jose C. Mafnas (“Plaintiff”), through Attorney Charity Hodson, complains  
26 against Defendants William M. Castro (“Defendant Castro”), in his personal capacity and in his  
27 official capacity as the Chief of Staff to the Office of the Governor, David DLG. Atalig, in his  
28 personal capacity and in his official capacity as the Secretary of Finance (“Secretary of

1 Finance") of the Department of Finance, and the Commonwealth of the Northern Mariana  
2 Islands (hereinafter, "Commonwealth Government") (collectively referred to as "Defendants").

3 **JURISDICTION AND VENUE**

4 1. Plaintiff invokes the jurisdiction of the Court under 28 U.S.C. §§ 1331 and 1333  
5 and questions of federal constitution law.

6 2. This is an action for injunctive relief and damages pursuant to 42 U.S.C. §§ 1983,  
7 1985, and 1986 based upon the continuing violations of Plaintiff's rights under the  
8 First Amendment and Fourteenth Amendment to the U.S. Constitution.

9 3. Jurisdiction also exists under the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a)  
10 and 2202.

11 4. The Court has supplemental jurisdiction over Plaintiff's other claims, which are  
12 based on CNMI law, under 28 U.S.C. § 1337.

13 5. Venue in the United States District Court for the Northern Mariana Islands is proper  
14 under 28 U.S.C. § 1331(b)(1) because Plaintiff and Defendants reside in the  
15 Commonwealth of the Northern Mariana Islands and under 28 U.S.C. § 1331(b)(2)  
16 because a substantial part of the events and omissions giving rise to the claims set  
17 forth in this complaint occurred in the District of the Northern Mariana Islands.

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21 **PARTIES**

22 6. Plaintiff Jose C. Mafnas is a U.S. citizen and a resident of Saipan, Commonwealth  
23 of the Northern Marianas Islands (CNMI).

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7. Defendant William M. Castro is a current resident of Saipan, CNMI, and is employed as the Chief of Staff to CNMI Governor Ralph Torres under the Office of the Governor.
8. Defendant David DLG. Atalig is the current Secretary of Finance of the CNMI Department of Finance, which is a government agency of the Commonwealth Government established within the executive branch.
9. Defendant Commonwealth Government is an “authority of the Commonwealth government,” defined by 1 CMC § 9101(b) as an “agency,” within which is the Department of Finance. Plaintiff hails the Commonwealth Government into this Court to serve as a proper party to bring before this Court should the Department of Finance through the Secretary be dismissed from this matter as an improper party because it is a non-jural entity or otherwise cannot be hailed into this Court. Should the Department of Finance be so dismissed from this matter, Plaintiff reserves the right to amend this Complaint if so approved by the Court so that the contents herein properly reflect claims against Defendant Commonwealth Government.

## FACTUAL ALLEGATIONS

10. Plaintiff began working for the Division of Customs in 1984 as a trainee and has worked his way up under the Department of Finance since that time.
11. From 1998 to 2003, Plaintiff served as the Director of Customs.
12. From 2003 to 2013, Plaintiff served as the Director of Administration under the Department of Finance.

13. Plaintiff has served the CNMI as the Director of Customs and Biosecurity from 2013 to July 21, 2022.

14. The Custom Director's regular job duties are to enforce Custom Rules and Regulations, as well as CNMI laws, Federal Laws, and the Personnel Regulations as they apply to the import and export of taxable goods to and from the CNMI.

15. Plaintiff is a civil service government employee.

16. Plaintiff's record of leadership and effective experience as the Director of Customs and Biosecurity has been exemplary.

17. Since Plaintiff took over the Customs Division nine years ago, collections of previously uncollected tax have climbed upward, by millions of dollars.

18. Plaintiff's leadership and spirit of teamwork with his Customs officers has resulted in a strong defense against the spread of methamphetamine in the CNMI, as evidenced by the multiple, consistent, and frequent reports of Customs intercepting methamphetamine, and leading to the arrests of numerous drug offenders throughout Plaintiff's service as the Director and with the work of his team.

19. In November 2015, U.S. Delegate Gregorio Kilili C. Sablan presented a congressional commendation to the CNMI Division of Customs, through Plaintiff and his staff, recognizing their diligent work in fighting the war on methamphetamine in the CNMI.

20. Plaintiff has performed his duties as the Director of Customs and Biosecurity with diligence and effectiveness over his many years of service, as is evidenced by his

1 record of increasing government revenue through collection efforts and eliminating  
2 drugs in the community in coordination with his team.

3 21. On the afternoon of July 21, 2022, Plaintiff was given a Memorandum by the  
4 Secretary of Finance which purported to “reassign” Plaintiff to the Department of  
5 Commerce as a “Director of Export, Importation, & Public Outreach” to report to the  
6 Secretary of Commerce.

7 22. The Secretary of Finance’s Memorandum stated that the new position would be  
8 effective the following day of the date of Memorandum and would be for a term of  
9 six months, unless otherwise determined by the Secretary of Finance or the Secretary  
10 of Commerce.

11 23. The Department of Commerce is not a division of the Department of Finance.

12 24. Instead, the Department of Commerce is a separate government agency of the  
13 Commonwealth Government established within the executive branch and headed by  
14 a Director of Commerce.

15 25. The position of “Director of Export, Importation, & Public Outreach” is not a  
16 designated position under the civil service.

17 26. Under 1 CMC § 8312, no person can be employed in a position in the civil service  
18 under any title which has not been approved by the Civil Service Commission.

19 27. All positions within the civil service must be classified within a position  
20 classification plan, and there is a Civil Service System Classification and  
21 Compensation Manual that provides for the classification new positions.

1 28. When a new position is opened under the civil service, the position should be  
2 announced and published for a certain amount of time to locate candidates.

3 29. As of the issuance of the July 21, 2022 Memorandum, the Civil Service Commission  
4 had not approved the civil service of “Director of Export, Importation, & Public  
5 Outreach,” although upon information and belief, the Secretary of Commerce did  
6 reach out to the Office of Personnel Management to create the position after Plaintiff  
7 filed a civil suit in the CNMI Superior Court on July 24, 2022, with substantially the  
8 same factual allegations as alleged herein, which suit Plaintiff voluntarily dismissed  
9 without prejudice on July 27, 2022, with the CNMI Superior Court’s acceptance of  
10 the voluntary dismissal without prejudice on the same day. A true and correct copy  
11 of the Request to Establish Director of Export, Importation & Public Outreach from  
12 the Secretary of Commerce to the Office of Personnel Management dated July 21,  
13 2022, but not received by the Office of Personnel Management until July 25, 2022,  
14 is filed herewith as Exhibit 4.

15 30. Plaintiff’s previous civil suit in the CNMI Superior Court did not directly allege  
16 a violation of 42 U.S.C. § 1983 nor did it include Defendant Castro.

17 31. The Secretary of Finance’s Order of Reassignment begins with two paragraphs  
18 recognizing Plaintiff’s productive and competent leadership, his value as a member  
19 of the Department of Finance management team, and his outstanding performance  
20 and demonstrated success in core areas of relentless enforcement and historically  
21 high collections of taxes in the CNMI, but then “summons” Plaintiff’s leadership to  
22 the Department of Commerce to address compelling opportunities there.

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1           32. Upon information and belief, the “compelling opportunity” of serving as the Director  
2           of Export, Importation & Public Outreach is a sham.

3           33. On July 21, 2022, Plaintiff contacted the Office of Personnel Management for  
4           information on this position and learned that no such position exists.

5           34. The Secretary of Finance’s Order did not inform Plaintiff of any right to appeal the  
6           decision, to file a grievance, or any other indicia of due process.

7           35. The Order does not advise Plaintiff of remedies or right to appeal, or right to file a  
8           grievance, nor does it mention administrative exhaustion of remedies at all.

9           36. The Personnel Service Appeals System under Subpart D of the Civil Service  
10           Commission Personnel Service System Rules and Regulations provides an  
11           administrative process for employees suffering from suspension, furloughs,  
12           separations, and demotions not resulting from reduction-in-force. NMIAC § 10-20.2-  
13           255.

14           37. Adverse actions taken under Subpart D require appointing authorities to observe  
15           certain procedural requirements, including a letter of proposed adverse action that  
16           has been reviewed by the Personnel Office and the Attorney General, or their  
17           designees, before issuance. NMIAC § 10-20.2-257(m).

18           38. An employee suffering from an adverse action under Subpart D must be given at  
19           least thirty days’ notice of the proposed adverse action and the employee has a right  
20           to answer and if at all practicable, the employee must be kept on active duty in the  
21           regular position during the notice period. NMIAC § 10-20.2-257(m)(3)-(5).

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1           39. Additionally, the employee must be given a written decision before the adverse  
2           decision is effected, stating the reasons for the decision and advising the employee of  
3           appeal rights. NMIAC § 10-20.2-257(m)(6)-(7).

4           40. Under Subpart D, the adverse action procedural system provides for the management  
5           official's letter of proposed adverse action, the employee's answer and/or  
6           presentation of evidence, the management official's letter of decision, the  
7           employee's written appeal to the Civil Service Commission, a Civil Service  
8           Commission hearing, a Civil Service Commission decision, at which point after the  
9           administrative remedies have been exhausted, the employee then has the option of  
10           proceeding to the NMI Superior Court for judicial review, which could then be  
11           appealed to the NMI Supreme Court.

12           41. In this case, the Secretary of Finance's Order does not reference any suspension,  
13           furlough, separation, and demotion not resulting from reduction-in-force which  
14           would allow Plaintiff to avail of any procedural due process under Subpart D of the  
15           Civil Service Commission Personnel Service System Rules and Regulations.

16           42. Similarly, Subpart F of the Civil Service Commission Personnel Service System  
17           Rules and Regulations provides an administrative process for employees to appeal a  
18           decision to take adverse action resulting from reduction-in-force procedures, or an  
19           “unsatisfactory” or “satisfactory” performance rating. NMIAC § 10-20.2-275.

20           43. An employee's rights under this process cannot be denied and include the  
21           employee's right to a hearing, the right to be free from an employer's reprisal or  
22           interference, the right to representation, and the right to time to file an appeal to be  
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1 heard by the Civil Service Commission, wherein the employee has the opportunity to  
2 present witnesses and evidence. NMIAC §§ 10-20.2-276 to 279.

3 44. If the Civil Service Commission finds any regulatory or procedural defect in the  
4 appointing authority's decision to take adverse action, the employee would be  
5 entitled to reversal of the action. NMIAC § 10-20.2-280.

6 45. In this case, the Secretary of Finance's Order does not reference any reduction-in-  
7 force procedures, or an "unsatisfactory" or "satisfactory" performance rating which  
8 would allow Plaintiff to avail of any procedural due process under Subpart F of the  
9 Civil Service Commission Personnel Service System Rules and Regulations.

10 46. Finally, Subpart G of the Civil Service Commission Personnel Service System Rules  
11 and Regulations provides a grievance procedure to cover all matters of concern or  
12 dissatisfaction to an eligible employee *unless* the grievance is excepted by an  
13 adverse action appealed under Part 200, Subpart D, a fitness-for-duty examination,  
14 the content of published government policy, non-selection for appointment,  
15 promotion, or transfer from a group of properly ranked and certified candidates, non-  
16 adoption of a suggestion or disapproval of a merit increase, performance award, or  
17 other kind of honorary discretionary award, and an employee who is serving on  
18 probationary status.

19 47. The Secretary of Finance's Order of Reassignment is a *de facto* adverse action,  
20 which is excepted under any grievance procedure under Subpart G.

21 48. The purported position of Director of Export, Importation & Public Outreach is not  
22 an existing position for an employee under the Civil Service System and therefore

1 any statement by the Secretary of Finance that this fictional position does not change  
2 Plaintiff's civil service status is not supported by any law, regulation, or fact.

3 49. The Order effectively removed Plaintiff from his position as Director, and placed  
4 him in a fictional and illegal position under a separate government agency,  
5 reportable to a separate appointing authority, yet allows any decisions regarding  
6 Plaintiff's future employment to be made at the whim of either the Secretary of  
7 Finance or the Secretary of Commerce.

8 50. The Secretary of Finance's statement that the position is for a six-month term  
9 contradicts his statement that the new position will not result in any losses or  
10 benefits, particularly with regard to Plaintiff's protected civil service status and is  
11 further without legal basis as the Secretary of Finance has no authority to create a  
12 new civil service position and then transfer an employee into it without any notice.

13 51. Plaintiff is entitled to the protections given to him by CNMI law as a civil service  
14 employee.

15 52. Additionally, Plaintiff has a constitutionally protected property interest in his  
16 continued employment as a public employee.

17 53. The Secretary of Finance's Order is a demotion and an adverse action taken against  
18 Plaintiff with no recognition of his right to due process and is a violation of  
19 Plaintiff's constitutional rights.

20 54. Furthermore, the Secretary of Finance's Order to effectively reclassify Plaintiff's  
21 employment and subdelegate an employment position that does not exist to another  
22 government agency is ultra vires and void.

1       55. Because the Secretary of Finance's Order an illegal and ultra vires act, there is no  
2       administrative remedy to exhaust where the action taken by the appointing authority  
3       is not an action contemplated for or addressed with the Civil Service Commission  
4       Personnel Service System Rules and Regulations.

5       56. Finally, it is clear here that the purported reassignment was not for any legal  
6       purpose.

7       57. Plaintiff has no administrative remedies to exhaust.

8       58. It is no secret that Plaintiff is a supporter of the independent Palacios-Apatang  
9       gubernatorial ticket for the CNMI November 2022 General Election, which ticket is  
10       running against the incumbent governor.

11       59. In the recent months leading up to his effective termination, Plaintiff has been  
12       publicly supporting the incumbent governor's gubernatorial opponent outside of the  
13       work place by appearing at events, fundraisers, and roadside wavings.

14       60. Plaintiff's constitutional right to vote freely and to associate as he sees fit has been  
15       under fire for months since his public support of the Governor's opponent.

16       61. On or about May 22, 2022, Plaintiff's niece, Rowena Ogo, sent a message to  
17       Defendant Castro regarding talk from Defendant Castro about terminating Plaintiff's  
18       employment.

19       62. Defendant Castro replied:

20       "Next time your uncle fuhks (*sic*) with my Governor I'll fire him myself  
21       Sorry  
22       I don't report to you  
23       U need to decide where ur loyalties lie

1       63. A true and correct copy of the messages is filed herewith as Exhibit 1 and  
2       incorporated herein by reference.

3       64. Upon information and belief, Defendant Castro's reference to "my Governor" is the  
4       incumbent CNMI Governor, Ralph Torres, for whom Defendant Castro is employed  
5       as his Chief of Staff.

6       65. Upon information and belief, the "uncle" referenced in the message is Plaintiff.

7       66. Defendant Castro also stated:

8            9 "I'm not here to make friends or run for office  
9            10 I'm here to protect n secure my Governor  
10           11 For the record  
11           12 I don't talk shit about anyone  
12           13 I call it like I see it  
13           14 If he's with the Gov  
14           15 In terms of the Vision...  
15           16 Then we're all Gud."

16       67. The "he" referenced in the message is Plaintiff.

17       68. A true and correct copy of the messages is filed herewith as Exhibit 2 and  
18       incorporated herein by reference.

19       69. When Rowena Ogo questioned the ethics of Defendant Castro's comment,  
20       Defendant Castro replied:

21            22 "Agreed  
22           23 I must be more careful  
23           24 But there's no ethical conflict when the chief of staff decides if someone is unwilling or  
incapable of executing the execution direction  
Simple  
This is not my first rodeo

24       Exhibit 2.

25       70. When Plaintiff directly engaged the incumbent governor's Chief of Staff in a written  
26       communication to address these comments on or about May 22, 2022, the Chief of  
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1 Staff replied: "Director, I've been a winner and a loser. But I've never lost a civil  
2 service battle." A true and correct copy of the messages is filed herewith as Exhibit 3  
3 and incorporated herein by reference.

4 71. The same day Plaintiff was given the Secretary of Finance's adverse order, an  
5 Officer 1 was appointed as the Acting Director of Customs, bypassing several  
6 experienced management officers at Customs.

7 72. The now-Acting Director of Customs is a close relative of the incumbent Governor's  
8 running mate for the November 2022 gubernatorial election.

9 73. Plaintiff expects that the continued muzzling of his First Amendment rights and the  
10 retaliation against Plaintiff's assertions of his freedom to vote as he chooses and not  
11 as he is told will continue into the illegally assigned position at the Department of  
12 Commerce.

13 74. Since his reassignment, Plaintiff sits in an office at the Department of Commerce, in  
14 a position that has not been classified as a Civil Service position, at a government  
15 agency that was not prepared to receive him as an employee.

16 75. Upon information and belief, this was done at the order of Defendant Castro, as the  
17 Chief of Staff to the incumbent Governor, to Plaintiff's then-supervisor, the  
18 Secretary of Finance.

19 76. The Order was given outside the scope of the Director of Finance's authority, and  
20 was done without notice or an opportunity to be heard to Plaintiff.

21 77. The Order is cleverly written to purport to give Plaintiff the same benefits and  
22 compensation in the new fictional position as Plaintiff received as the Director of

Customs and Biosecurity, in order to cut off any allegation that the reassignment is actually an adverse action, entitling Plaintiff to the procedural protections afforded by the Personnel System Service and Regulations and the due process protections of the U.S. and NMI Constitutions.

78. The Order is in direct retaliation for Plaintiff's failure to follow the executive direction of supporting the incumbent Governor.

79. These threats by the Chief of Staff and the retaliatory reassignment of Plaintiff occurred shortly Plaintiff publicly expressed his support for the Governor's opponent.

80. In line with the promises made by the Chief of Staff that if Plaintiff continued with his actions and continued to “fuhk” with the Governor (as articulated by Defendant Castro), Defendant Castro would see to it that Plaintiff would be fired, Defendant did see to it that Plaintiff’s employment was adversely affected, if not actually terminated.

81. In no uncertain terms, Defendant Castro made it clear that Plaintiff's employment would only be "all gud" as long as Plaintiff was "with the Gov." And if Plaintiff continued to be unwilling to execute the executive direction of supporting the incumbent Governor, then Plaintiff would be subject to actions to terminate him, caused by Defendant Castro and at his order.

**FIRST CAUSE OF ACTION (DEFENDANT SECRETARY OF FINANCE AND DEFENDANT CASTRO, IN THEIR PERSONAL CAPACITIES)**

*VIOLATIONS OF RIGHT TO DUE PROCESS OF LAW, RIGHT TO  
FREEDOM OF SPEECH, RIGHT TO FREEDOM OF ASSOCIATION;  
42 U.S.C. § 1983*

82. Plaintiff incorporates the preceding paragraphs by reference as if fully rewritten herein.

83. Defendant Secretary of Finance at all times relevant to this action was acting under color of state law, or CNMI law.

84. Defendant Castro at all times relevant to this action was acting under color of state law or CNMI law

85. Defendant Secretary of Finance owed Plaintiff a duty under the due process clauses of the First and Fourteenth Amendments to the U.S. Constitution and Article I, Section 5 of the CNMI Constitution.

86. Defendant Secretary of Finance intentionally, unlawfully, and maliciously deprived Plaintiff of his property interest in continued employment without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States.

87. Defendant Castro intentionally, unlawfully, and maliciously participated in and/or caused the series of steps to deprive Plaintiff of his property interest in continued employment without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States.

1 88. Defendant Secretary of Finance's and Defendant Castro's violation of Plaintiff's  
2 rights were of constitutional magnitude which were clearly established rights at the  
3 time of the issuance of the Secretary of Finance's July 21, 2022 Memorandum.  
4 89. Defendant Secretary of Finance's violation of Plaintiff's rights was also a violation  
5 of CNMI law as clearly established by CNMI statutes which only grant the  
6 authority to create civil service positions to the Civil Service Commission and of  
7 CNMI law prohibiting political coercion.  
8 90. At all times relevant hereto, Defendant Secretary of Finance and Defendant Castro  
9 knew that their conduct was unlawful and it would have been clear to any  
10 reasonable official that CNMI law prohibited their actions in depriving Plaintiff of  
11 his employment and in illegally attempting to create a new civil service position.  
12 91. Defendant Secretary of Finance and Defendant Castro discriminated and retaliated  
13 against Plaintiff for exercising his constitutional right to freedom of association  
14 with a different political gubernatorial ticket than the incumbent governor.  
15 92. Defendant Secretary of Finance's engaged in patronage by issuing his decision to  
16 "reassign" Plaintiff which was an adverse employment action because of Plaintiff's  
17 political association.  
18 93. Defendant Secretary of Finance's and Defendant Castro's actions were motivated  
19 by evil motive or intent, or involved reckless or callous indifference to the rights of  
20 Plaintiff.  
21 94. Plaintiff has been damaged by Defendant Secretary of Finance's and Defendant  
22 Castor's actions in an amount to be determined according to proof and Plaintiff  
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1                    seeks compensatory and punitive damages as well as reasonable attorney's fees and  
2                    costs of suit under this cause of action.

3                    **SECOND CAUSE OF ACTION (DEFENDANT SECRETARY OF FINANCE**  
4                    **AND DEFENDANT CASTRO, IN THEIR OFFICIAL CAPACITIES)**  
5                    *RIGHT TO DUE PROCESS OF LAW, RIGHT TO FREEDOM OF SPEECH,*  
6                    *RIGHT TO FREEDOM OF ASSOCIATION; 42 U.S.C. § 1983*

7                    95. Plaintiff incorporates the preceding paragraphs by reference as if fully rewritten  
8                    herein.

9                    96. Defendant Secretary of Finance at all times relevant to this action was acting under  
10                    color of state law, or CNMI law.

11                    97. Defendant Castro at all times relevant to this action was acting under color of state  
12                    law, or CNMI law.

13                    98. Defendant Secretary of Finance and Defendant Castro intentionally, unlawfully, and  
14                    maliciously deprived Plaintiff of his property interest in continued employment  
15                    without due process of law in violation of the Fourteenth Amendment to the  
16                    Constitution of the United States.

17                    99. Defendant Castro intentionally, unlawfully, and maliciously participated in and/or  
18                    caused the series of steps to deprive Plaintiff of his property interest in continued  
19                    employment without due process of law in violation of the Fourteenth Amendment  
20                    to the Constitution of the United States.

21                    100. Defendant Secretary of Finance's and Defendant Castor's violation of Plaintiff's  
22                    rights were of constitutional magnitude which was a clearly established right at the  
23                    time of the issuance of the Secretary of Finance's July 21, 2022 Memorandum.

101. Defendant Secretary of Finance's and Defendant Castro's violation of Plaintiff's  
1  
2 rights was also a violation of CNMI law as clearly established by CNMI statutes  
3 which only grant the authority to create civil service positions to the Civil Service  
4 Commission and of CNMI law prohibiting political coercion.

102. At all times relevant hereto, Defendant Secretary of Finance and Defendant  
5 Castro knew their conduct was unlawful and it would have been clear to any  
6 reasonable official that the Constitution and CNMI law prohibited their actions in  
7 depriving Plaintiff of his employment and in illegally attempting to create a new  
8 civil service position.

103. Defendant Secretary of Finance and Defendant Castro discriminated and  
12 retaliated against Plaintiff for exercising his constitutional right to freedom of  
13 association with a different political gubernatorial ticket than the incumbent  
14 governor.

104. Defendant Secretary of Finance engaged in patronage by issuing his decision to  
17 "reassign" Plaintiff which was an adverse employment action because of Plaintiff's  
18 political association.

105. Plaintiff therefore seeks only injunctive relief against Defendant Secretary of  
21 Finance in his official capacity, and against Defendant Castro in his official  
22 capacity, as below discussed in the injunctive relief section of this complaint under  
23 this cause of action.

1                   **THIRD CAUSE OF ACTION (DEFENDANT SECRETARY OF FINANCE IN HIS  
2 OFFICIAL CAPACITY, DEFENDANT CASTRO IN HIS OFFICIAL CAPACITY, AND  
3 COMMONWEALTH GOVERNMENT)**

4                   ***DECLARATORY JUDGMENT, ALTERNATIVELY***

5                   106. Plaintiff incorporates the preceding paragraphs by reference as if fully rewritten  
6                   herein.

7                   107. An actual controversy exists in the CNMI between Plaintiff and/or Defendant  
8                   Castro and/or the Secretary of Finance and/or the Commonwealth Government as to  
9                   the order of Defendant Castro causing Defendant Secretary of Finance's ultra vires  
10                  and illegal decision to take a de facto adverse action against Plaintiff's civil service  
11                  employment without due process under the authority of the Commonwealth  
12                  Government.

13                  108. Plaintiff has been injured by the de facto adverse decision issued by the  
14                  Secretary of Finance against him under the authority of the Commonwealth  
15                  Government because it is a loss of employment as the Director of Customs and  
16                  Biosecurity, which is a position Plaintiff has held and enjoyed for the past nine years  
17                  to the benefit of the Commonwealth.

18                  109. Plaintiff has been injured by Defendants' violation of his constitutional protected  
19                  property interest in continued employment as a public employee.

20                  110. Plaintiff has been irreparably injured by Defendants' violations of his  
21                  constitutional right to due process and of his right to be free from political influence  
22                  and coercion.

111. The Secretary of Finance had no authority to reclassify Plaintiff and to designate  
1  
2 a position which has no official record nor to purport to employ a person in a civil  
3 service under an unapproved position.

4 112. Defendants violated Plaintiff's right to equal opportunity under the  
5 Commonwealth Civil Service Act because the adverse decision was based on  
6 retaliation against Plaintiff's political affiliation.  
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8 113. Defendants violated Plaintiff's right to reasonable job security under the  
9 Commonwealth Civil Service Act.  
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11 114. Defendants violated Plaintiff's right to a fair and reasonable grievance procedure  
12 under the Commonwealth Civil Service Act and deliberately attempted to foreclose  
13 Plaintiff of any administrative redress.  
14

15 115. Defendants violated the provisions of the Civil Service Act which provide for a  
16 career service which is intended to retain the best qualified civil servants on merit  
17 who are entitled to hold their positions free from coercion, discrimination, reprisal or  
18 political influence.  
19

20 116. Defendants violated the provisions of the Civil Service Act by attempting to  
21 demote and reclassify a civil service employee who has a long history of providing  
22 impartial service according to the dictates of ethics and morality.  
23

24 117. Defendant Secretary of Finance and Defendant Castro, under the purported  
25 authority of the Commonwealth Government, discriminated against Plaintiff on  
26 account of his political affiliation in violation 1 CMC § 8141.  
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1 118. Defendant Castro and Defendant Secretary of Finance unlawfully used their  
2 official authority to influence or coerce the political action of Plaintiff at the behest  
3 of Defendant Castro in violation of 1 CMC § 8142.

4 119. There is an adequate remedy at law in that this Court can order injunctive relief  
5 to restore Plaintiff to his position or otherwise declare the July 21, 2022  
6 Memorandum to be ultra vires and void.  
7

8 **FOURTH CAUSE OF ACTION (DEFENDANT SECRETARY OF FINANCE AND  
9 DEFENDANT CASTRO, IN THEIR PERSONAL AND OFFICIAL CAPACITIES)  
10 *POLITICAL COERCION; 1 CMC § 8153***

11 120. Plaintiff incorporates the preceding paragraphs by reference as if fully rewritten  
12 herein.  
13

14 121. Defendant Castro and Defendant Secretary of Finance caused and/or threatened  
15 to be caused a demotion in rank or civil service classification or position of Plaintiff  
16 with intent to discourage or encourage such government employee to support a  
17 candidate for public office and/or a political party.  
18

19 122. Plaintiff has suffered injury to his person and property in an amount to be  
20 determined according to proof as a result of Defendant Castro and Defendant  
21 Secretary of Finance's political coercion.  
22

23 123. Plaintiff seeks full damages, both tangible and intangible as a result of the  
24 coercion, attorney's fees, and court costs for this cause of action.  
25  
26  
27  
28

**FIFTH CAUSE OF ACTION**

***INJUNCTIVE RELIEF (DEFENDANT SECRETARY OF FINANCE, IN HIS OFFICIAL  
AND PERSONAL CAPACITY)***

124. Plaintiff incorporates the preceding paragraphs by reference as if fully rewritten  
herein.

125. The Secretary of Finance's de facto adverse decision and Order to Plaintiff was  
not in accordance with law.

126. Plaintiff seeks an injunction from this Court preventing the Defendant Secretary  
of Finance from removing Plaintiff from his position as Director of Customs and  
Biosecurity or otherwise reinstating him.

**PRAYER FOR RELIEF**

13 Accordingly, Plaintiff prays for judgment against Defendants and requests relief as  
14 follows:

- 15 A. That this Court issue a judgment against Defendant Secretary of Finance and Defendant  
16 Castro for violation of Plaintiff's constitutional rights pursuant to 42 U.S.C. § 1983;
- 17 B. That this Court issue a declaratory judgment that Defendants' actions as alleged herein  
18 violate Plaintiff's rights under the United States and NMI Constitutions and specifically  
19 that the Secretary of Finance's Order is ultra vires and void;
- 20 C. That this Court issue judgment against Defendants Castro and Secretary of Finance for  
21 political coercion in violation of CNMI law;
- 22 D. That the Court issue an injunction to prevent Defendant Secretary of Finance from  
23 removing Mr. Mafnas from his position as Director of Customs and Biosecurity or to  
24 otherwise reinstate pending a decision on the merits;

- E. For reasonable attorney's fees and costs;
- F. For compensatory damages;
- G. For punitive damages;
- H. For damages in an amount to be determined according to proof;
- I. For such other relief as this Court believes justice requires.

Respectfully submitted this 27<sup>th</sup> day of July, 2022.

/s/ Charity R. Hodson  
By: Charity R. Hodson (F0487)  
Attorney for Plaintiff

## VERIFICATION

I, Jose C. Mafnas, hereby attest and declare that I have reviewed the foregoing document, and I have personal knowledge of the factual statements contained in the Verified Complaint. I verify that these statements are true and correct and that the exhibits are true and correct copies of communications as I received them.

Declared under the penalty of perjury of the laws of the United States of America on this  
22<sup>nd</sup> day of July, 2022.

  
\_\_\_\_\_  
Jose C. Mafnas  
Plaintiff